

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BANK OF AMERICA, N.A.,

Plaintiff,

V.

RHETT CAVIEL, MORGAN L. JACKSON, HEWEN P. HUMPHREY, III, MARTHA HUMPHREY McQUEEN, HOMER HUMPHREY, LEO C. HUMPHREY, FRANK HUMPHREY, BARABARA J. HUMPHREY ARMSTEAD, and THE UNKNOWN HEIRS AT LAW OF ANTHONY R. HUMPHREY, DECEASED,

Defendants.

Civil Action No. 4:22-cv-02747

PLAINTIFF'S MOTION FOR SUBSTITUTED SERVICE ON RHETT CAVIEL

Plaintiff Bank of America, N.A. (“Plaintiff” or “BANA”) files this its Motion for Substituted Service on Defendant Rhett Caviel and respectfully shows as follows:

I.

1. Plaintiff filed its Original Complaint on August 12, 2022. [ECF No. 1] A request for issuance of summons was filed on August 17, 2022. [ECF No. 4]. Summons on Rhett Cavier was issued on August 18, 2022. [ECF No. 5].

2. Rhett Caviel has not been served as of this date. After the issuance of the summons, a process server made repeated attempts to serve Rhett Caviel at his homestead at 7818 Montilla Court, Houston, Texas 77083. (See Exhibit A). All of these efforts were unsuccessful.

3. Plaintiff attempted to serve Defendant Rhett Caviel on six (6) occasions by personal delivery, but has not been successful.

a. On 8/27/2022 at 10:30 a.m., the process server confirmed the residence of Rhett Caviel at 7818 Montilla Court, Houston, Texas 77083 per the Harris County Appraisal District.

b. On 8/27/22 at 10:46 a.m. the process server attempted service at 7818 Montilla Court, Houston, Texas. There was no answer at the door or cars in the driveway.

c. On 8/30/22 at 936 p.m., the process server attempted service at 7818 Montilla Ct., Houston, Texas. There were three cars in the driveway registered to Rhett Franklin Caviel. There were no lights on in the house but a light on porch above the door. Upon knocking at the door, a black man appeared and yelled “who is it”. Upon identifying himself, the process server asked if the man was Rhett Caviel. He responded in a low menacing voice to get off his property.

d. On September 1, 2022, at 7:40 a.m., the process server attempted service at 7818 Montilla Ct., Houston, Texas. There were two cars in the driveway registered to Rhett Franklin Caviel. There were no lights on inside. There was no response.

e. On September 3, 2022, at 2:20 p.m., the process server attempted service at 7818 Montilla Ct., Houston, Texas. There was no answer at the door and no cars in the driveway.

II.

4. Plaintiff requests that this Court authorize Plaintiff to serve Defendant Rhett Cavier by leaving a true copy of the Summons and Complaint by securing the Summons and Complaint to the front door entrance at 7818 Montilla Court, Houston, Texas 77083.

5. Plaintiff attaches an affidavit to this motion as Exhibit “A” to verify the attempts at service and incorporates it by reference herein.

6. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Court grant its *Motion for Substituted Service* and authorize substituted service on Defendant Rhett Caviel by leaving a true copy of the summons and the attached complaint by securing the document to the

front door entrance at 7818 Montilla Court, Houston, Texas 77083 in accordance with the Federal Rule of Civil Procedure 4(e)(1) and Texas Rule of Civil Procedure 106, and grant other further relief to which it may be justly entitled at law or in equity.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

MARK D. CRONENWETT

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